

**BEFORE THE PLANNING COMMISSION**  
**FOR THE CITY OF BEAVERTON, OREGON**

IN THE MATTER OF A REQUEST FOR	)	
	)	ORDER NO. 1766
APPROVAL TO MODIFY A PREVIOUSLY	)	
	)	LD 2004-0034
APPROVED LAND DIVISION	)	
	)	ORDER APPROVING
APPLICATION (BLACKSTONE	)	
	)	WITH CONDITIONS
SUBDIVISION), JT ROTH	)	
	)	
CONSTRUCTION, APPLICANT.	)	

The matter came before the Planning Commission on October 20, 2004, and December 8, 2004, on a request for approval to modify a previously approved Land Division application (LD2003-0033). The applicant proposes grade modifications on Lots 14 through 17, in excess of the two foot elevation change allowed in Condition #1 of Land Use Order No. 1681. The applicant also requests approval to phase the approved subdivision. The applicant proposes two phases. Phase 1 is for the construction of nine lots (identified in the original subdivision approval as Lots 1 through 6 and Lots 21, 22, and 23), the water quality facility, and associated public improvements. Phase 2 is the construction of the remaining 14 lots and the remaining public improvements. The number of lots, trees to be retained on the site, and the location of the utilities and public improvements are not proposed for change.

The project site is located generally on the west side of SW 155<sup>th</sup> Avenue, north of SW Hart Road, and south of SW Brighton Court, and is more specifically identified as Tax Lots 1100, 1200, 1300, 1400, and 100 on Washington County Tax Assessor's Map 1S1-20CA. The zoning map designation for this property is Residential Urban Standard Density (R-5), and the project site totals approximately 4.5 acres.

Pursuant to Ordinance 2050, Section 50.95.6 and Section 50.45, the Planning Commission conducted a public hearing and considered testimony and exhibits on the subject proposal.

The Commission adopts the following supplemental findings in support of the final action, in response to key issues of concern, as identified herein.

*1. Retaining Wall Maintenance* The Commission raised concern as to who would be responsible for the maintenance of the retaining walls southwest of Lot 17. The size and height of the wall along with the landscaping in the area would be less than 500 square feet, but the amenities are located in a highly visible area. The neighbors in the area stated their concern with the potential graffiti and lack of maintenance. The applicant indicated that through a maintenance agreement, the property owners of the parcels upon which the retaining walls and landscaping are located would be responsible for the maintenance of these amenities, which means the majority of the responsibility would fall on Lot 17 where the retaining wall and landscape area are mainly located. The applicant also indicated there

would be an easement on the property, in the area of the wall and landscaping, that would allow owners within this subdivision access to maintain the landscaping and retaining wall if it were not completed by Lot 17. The Commission agreed that the recording of a maintenance agreement, by the applicant, will provide a method for which maintenance of the amenity would be provided for the landscape area and retaining walls; thereby meeting Criterion 40.03.5 of the Development Code. To clarify the responsible party of the retaining wall would not be the City, but instead the property owners in the Blackstone Subdivision, staff recommended a condition that all retaining walls are to be located outside the right-of-way. The Commission agreed.

2. *Proposed Landscaping:* Staff raised concern with the appropriateness of the proposed landscaping with the proposed Heavenly Bamboo within the vision clearance area of SW 155<sup>th</sup> Avenue and the use of Korean Bamboo, a low growing shrub adjacent to the eight (8) foot wall. The applicant agreed to revise the planting materials within the landscape area. The Commission supported the revision of the plant material and made no changes to staff's condition requiring a Landscape Plan prior to the issuance of the Site Development Permit.

3. *Irrigation of the Landscape Area:* The Commission raised a concern on the survivability of the landscape material once installed. The Commission discussed the need for irrigation. The applicant agreed that

irrigation would ensure the survivability of the plant material but requested temporary irrigation. To ensure the longevity of the plant material and to improve the likelihood that the property owner of Lot 17 maintains the landscaping, the Commission conditioned that the applicant provide permanent irrigation within the landscape area.

*4. Phasing of Public Improvements* While improvements for SW 155<sup>th</sup> Avenue are to be constructed with Phase 1, the applicant has requested that the sidewalks not be constructed with Phase 1 to limit damage to the sidewalks during construction in Phase 2. While the Commission acknowledges the potential damage on the sidewalk during Phase 2, they raised concern with prolonging the completion of the pedestrian connection. The Commission conditioned that the sidewalks be completed prior to the issuance of a building permit in Phase 2 to provide a minimal time in which temporary pedestrian connections are used while allowing additional time for the applicant to complete the improvements in the area before the permanent sidewalks are to be constructed on SW 155<sup>th</sup> Avenue.

*5. Installation of Landscaping for Lots 14 and 16* The Commission raised concern with the clarity of Staff's condition with regard to the plantings for lots 14, 16, and 17. Staff's Conditions D.12 through D.15 state the landscape requirements for Lot 17, but not the other two lots. To ensure the consistency of the landscaping in this portion of the subdivision, the Commission revised these conditions to include Lots 14 and 16.

The Commission, after holding the public hearing and considering all oral and written testimony, adopts the Staff Report dated December 1, 2004, and the supplemental findings contained in this Order as to applicable approval criteria and findings thereon for this decision.

Therefore, **IT IS HEREBY ORDERED** that LD 2004-0034 is **APPROVED** subject to Conditions of Approval, as follows:

**A. Prior to any construction beginning for this proposal, the applicant shall:**

1. Show that all applicable conditions of approval from the original Land Division (LD2003-0033) approval are met. (Development Services Div. / SNK)
2. Submit a revision to the site development permit to the City Site Development Division for the Blackstone Subdivision (SD2004-0025) showing the approved modifications. (Site Development Div / JJD)
3. Pay the cost estimate and additional plan review fee prior to final plan revision approval for the second phase of construction. The existing security for the subdivision shall remain in place until all the improvements have been constructed for the entire subdivision and accepted by the City, or as otherwise determined by the City Engineer. (Site Development Div / JJD)
4. Submit a revised Landscaping Plan showing landscaping for the southeast corner of Lot No. 17. (Development Services Div. / SNK)
5. Submit a revision to the Site Development Permit confirming the improvements on SW 155<sup>th</sup> Avenue will be constructed as part of Phase 1 of the subdivision. (Development Services Div. / SNK)
6. Submit a plan showing that the retaining wall system for Lots 14 through 17 is concrete block with the Site Development Permit that includes a cap on the top of the retaining wall as shown as one of the examples on the applicant's wall exhibit. (Development Services Div. / SNK)
7. Submit a plan showing that all retaining wall systems are to be located outside the right-of-way. (Development Services Div. / SNK)

**B. Prior to final plat approval, the applicant shall:**

8. Ensure that all applicable conditions of approval contained in the previous Land Division approval (LD2003-0033) are met. (Development Services Div. / SNK)
9. Record an easement at the southeast corner between the retaining wall and the public right-of-way as part of the Phase 2 Final Plat. The easement shall provide property owners of the subdivision suitable access to maintain the area. (Development Services Div. / SNK)
10. Place permanent irrigation within the landscape area / easement area of Lot 17

**C. Prior to issuance of any Building Permit in Phase 2, the applicant shall:**

11. Construction of the sidewalks along the west side of SW 155<sup>th</sup> shall be completed.

**D. Prior to issuance of an occupancy permit for Lot 14, 16, and 17, the applicant shall:**

12. Ensure coniferous trees, having been balled and burlapped or grown within suitable containers for one year, are planted. Each tree shall be a minimum of 6 feet in height, except that dwarf and compact varieties may be approved at any size. All trees shall be fully branched and adequately staked at the time of planting. (Development Services Div. / SNK)
13. Ensure ground cover plantings are installed at a maximum of 30 inches on center and 30 inches between rows. Rows of plants are to be staggered for a more effective covering. Ground cover shall be supplied in a minimum 4 inch size container, or a 2-1/4 inch container if planted 18 inches on-center. (Development Services Div. / SNK)
14. Ensure deciduous or evergreen shrubs are installed at a minimum, using one-gallon containers or 8 inch burlap balls with a minimum spread of 12 inches to 15 inches. (Development Services Div. / SNK)
15. Ensure landscaped areas approved to be planted in lawn have sod installed between November 1 and March 1, and between June 1 and September 1 of the year. Grass seed is approved as an option at other times of the year. Sod may be placed at any time of year. This condition is not applicable to special seed mixes approved for use in natural resource areas, steep slopes, or in areas for the primary purpose of erosion control. (Development Services Div. / SNK)

Motion **CARRIED**, by the following vote:

**AYES:** Winter, DeHarpport, Bliss, Pogue, and  
Barnard..

**NAYS:** Johansen and Maks.

**ABSTAIN:** None.

**ABSENT:** None.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

To appeal the decision of the Planning Commission, as articulated in  
Land Use Order No. 1766, an appeal must be filed with the City of Beaverton  
Recorder's Office by no later than 5:00 p.m. on \_\_\_\_\_,  
2004.

PLANNING COMMISSION  
FOR BEAVERTON, OREGON

ATTEST:

APPROVED:

\_\_\_\_\_  
SAMBO KIRKMAN  
Associate Planner

\_\_\_\_\_  
ROBERT BARNARD  
Chairman

\_\_\_\_\_  
STEVEN A. SPARKS, AICP  
Development Services Manager